

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NOAH FORD,

Plaintiff,

v.

I.Q. DATA INTERNATIONAL,  
INC., et al.,

Defendants.

C22-1791 TSZ

ORDER

THIS MATTER comes before the Court on the second motion for summary judgment, docket no. 122, brought by defendants I.Q. Data International, Inc. (“I.Q. Data”) and Kris Graafstra. Having reviewed all papers filed in support of, and in opposition to, the motion, the Court enters the following Order.

**Background**

This case arises from defendant I.Q. Data’s efforts to collect a debt assigned to it from Shea Properties Management Company, Inc. (“Shea Properties”), on behalf of Tanjent Multifamily Vertical, L.P., and allegedly owed by plaintiff Noah Ford. Ford originally alleged violations of the Fair Debt Collection Practices Act (“FDCPA”), Fair Credit Reporting Act (“FCRA”), the Washington Consumer Protection Act (“CPA”), and

1 a state law fraud claim against both I.Q. Data and Graafstra. I.Q. Data and Graafstra  
2 previously moved for summary judgment, *see* Defs’ First Mot. (docket no. 73), and the  
3 Court granted their motion in part and denied it in part, *see* Order at 12 (docket no. 110).  
4 The Court dismissed Ford’s fraud claims and some of his FDCPA and FCRA claims. *Id.*  
5 Ford’s CPA claims, and some of his FDCPA and FCRA claims, survived that attempt at  
6 summary judgment.

7 The facts of the case have remained largely unchanged since the Court’s prior  
8 Order, and those facts are incorporated herein. *See id.* at 1–4. The key factual  
9 development since the Court’s previous Order is that, prior to his deposition, Ford had  
10 never seen the December 20, 2021, letter (the “December 2021 letter”) sent to him by  
11 I.Q. Data. Ford. Tr. at 109:16–110:11, Ex. 24 to Hasson Decl. (docket no. 125 at 3–26).

## 12 **Discussion**

### 13 **A. Summary Judgment Standard**

14 The Court shall grant summary judgment if no genuine issue of material fact exists  
15 and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a).  
16 The moving party bears the initial burden of demonstrating the absence of a genuine issue  
17 of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). A fact is material if  
18 it might affect the outcome of the suit under the governing law. *Anderson v. Liberty*  
19 *Lobby, Inc.*, 477 U.S. 242, 248 (1986). To survive a motion for summary judgment, the  
20 adverse party must present affirmative evidence, which “is to be believed” and from  
21 which all “justifiable inferences” are to be favorably drawn. *Id.* at 255, 257. When the  
22 record, taken as a whole, could not, however, lead a rational trier of fact to find for the  
23

1 non-moving party on matters as to which such party will bear the burden of proof at trial,  
2 summary judgment is warranted. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*,  
3 475 U.S. 574, 587 (1986); *see also Celotex*, 477 U.S. at 322.

4 **B. I.Q. Data**

5 **1. Fair Credit Reporting Act**

6 The Court previously declined to grant summary judgment in I.Q. Data's favor on  
7 Ford's FCRA claim. *See* Order at 12 (docket no. 110). The Court found that in light of  
8 the admitted inaccuracies in I.Q. Data's reports to the major credit reporting agencies  
9 ("CRAs"), and drawing inferences in favor of Ford, there were disputes of material fact  
10 as to whether I.Q. Data's investigation was reasonable. *Id.* at 8–10. I.Q. Data again  
11 argues that it is entitled to summary judgment because it conducted reasonable  
12 investigations in response to the disputes Ford filed with the CRAs, this time focusing on  
13 the fact that it will be Ford's burden at trial to establish that I.Q. Data's investigation was  
14 unreasonable.

15 As previously noted, when a court is presented with the question of whether an  
16 investigation was reasonable, "[u]nless 'only one conclusion about the conduct's  
17 reasonableness is possible,' the question is normally inappropriate for resolution at the  
18 summary judgment stage." *Gross v. CitiMortgage, Inc.*, 33 F.4th 1246, 1252 (9th Cir.  
19 2022) (quoting *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1157 (9th Cir.  
20 2009)). Many of the disputes Ford filed with the CRAs related to the amount owed on  
21 the debt. *See* May 7, 2024, Gulbranson Decl. at ¶¶ 25, 29, 33 (docket no. 123). After  
22 receiving and investigating these disputes and concluding that it had reported the correct  
23

1 amount, I.Q. Data would continue to report to the CRAs, by its own admission, incorrect  
2 amounts due on the debt. There is, therefore, a factual issue as to whether I.Q. Data's  
3 investigations were reasonable. Accordingly, I.Q. Data's motion is DENIED as to Ford's  
4 FCRA claim.

5 **2. Fair Debt Collections Practices Act**

6 The Court previously declined to grant summary judgment on Ford's FDCPA  
7 claims premised on the December 2021 and January 6, 2022, (the "January 2022 letter")  
8 letters sent to Ford because I.Q. Data conceded that those letters contained inaccurate  
9 information. *See* Order at 7–8, 12 (docket no. 110). In this attempt to obtain summary  
10 judgment, I.Q. Data contends that summary judgment is warranted on Ford's FDCPA  
11 claim arising from the December 20, 2021, letter because Ford never actually received  
12 the letter and, therefore, he lacks standing for this claim. I.Q. Data further argues that it  
13 is entitled to summary judgment on the FDCPA claims arising from both the December  
14 2021 letter and the January 2022 letter because, to the extent the letters contained any  
15 inaccuracies, such inaccuracies were immaterial and are also subject to the bona fide  
16 error defense.

17 Ford testified that he never received the December 2021 letter. *See* Ford. Tr. at  
18 109:16–110:11, Ex. 24 to Hasson Decl. (docket no. 125 at 3–26). Any harm caused by  
19 the December 2021 letter and the inaccurate information within does not provide Ford  
20 with standing. *See Tourgeman v. Nelson & Kennard*, 735 F. App'x 340, 341 (9th Cir.  
21 2018) ("An alleged harm based on [debt collection] letters that [the plaintiff] never  
22 received, saw, or even knew existed cannot satisfy Article III's concreteness  
23

1 requirement.”) (citing *Spokeo, Inc. v. Robins*, 578 U.S. 330, 136 S.Ct. 1540, 1548 (2016)  
2 and *Bassett v. ABM Parking Servs. Inc.*, 883 F.3d 776, 783 (9th Cir. 2018)). Because  
3 Ford lacks standing to bring this claim, Ford’s FDCPA claim based on the December  
4 2021 letter is DISMISSED.

5 I.Q. Data next argues that Ford’s remaining FDCPA claim, arising from the  
6 January 2022, letter, should be dismissed because the inaccurate information it contained  
7 was not material and because, even if the information was material, I.Q. Data is entitled  
8 to a bona fide error defense. Both arguments fail.

9 I.Q. Data argues that because the January 2022 letter demanded less than what was  
10 due on the day the letter was generated any inaccuracy was immaterial. Materiality is  
11 “not concerned with mere technical falsehoods that mislead no one, but instead with  
12 genuinely misleading statements that may frustrate a consumer's ability to intelligently  
13 choose his or her response.” *Donohue v. Quick Collect, Inc.*, 592 F.3d 1027, 1034 (9th  
14 Cir. 2010) (citing *Hahn v. Triumph P’ships LLC*, 557 F.3d 755, 757 (7th Cir. 2009)).  
15 Key to a debtor’s choice in how to resolve a debt is knowing the amount actually due.  
16 Here, the amount demanded in the January 2022 letter to Ford was different than the  
17 amount due on the debt on the day the letter was generated. If Ford had attempted to pay  
18 off his debt based on the January 2022 letter, he would have been unsuccessful because  
19 of the inaccurate information. The January 2022 letter contained inaccurate information  
20 that was material to Ford’s debt.

21 Even though inaccurate information that was material to Ford’s debt was in the  
22 January 2022 letter, I.Q. Data can avoid liability under the FDCPA by “the limited  
23

1 affirmative defense that their conduct was ‘not intentional and resulted from a bona fide  
2 error notwithstanding the maintenance of procedures reasonably adapted to avoid any  
3 such error.’” *Urbina v. Nat’l Bus. Factors Inc.*, 979 F.3d 758, 763 (9th Cir. 2020)  
4 (quoting 15 U.S.C. § 1692k(c)). Establishing the bona fide error defense requires a debt  
5 collector to show by a preponderance of the evidence that they “(1) violated the FDCPA  
6 unintentionally; (2) the violation resulted from a bona fide error; and (3) the debt  
7 collector maintained procedures reasonably adapted to avoid the violation.” *Id.* (citing 15  
8 U.S.C. § 1692k(c) and *McCollough v. Johnson, Rodenburg & Lauinger, LLC*,  
9 637 F.3d 939, 948 (9th Cir. 2011)). I.Q. Data argues that it maintained procedures  
10 reasonably adapted to avoid any FDCPA violation because (i) it requested an itemization  
11 of Ford’s debt from Shea Properties, and (ii) it was entitled to rely on those requested  
12 documents because of the requirement in the assignment contract between the entities  
13 that Shea Properties would only provide accurate information to I.Q. Data. As I.Q. Data  
14 correctly observes, reliance on a warranty of accurate information from a creditor does  
15 not satisfy a debt collector’s obligation to maintain procedures reasonably adapted to  
16 avoid FDCPA violations. *See id.* at 763–64. Similarly, a “debt collector’s reliance on the  
17 creditor’s history of providing accurate information was not a procedure reasonably  
18 adapted to avoid receiving inaccurate information.” *Id.* at 763 (citing *Reichert v. Nat’l*  
19 *Credit Sys., Inc.*, 531 F.3d 1002, 1007 (9th Cir. 2008)). The fact that I.Q. Data did  
20 review documents supporting Ford’s debt weighs in I.Q. Data’s favor. Courts, however,  
21 have identified “elaborate procedures” that enable a debt collector to successfully invoke  
22 the bona fide error defense including, among other coextensive processes, ““a  
23

1 requirement that the creditor verify under oath that *each charge* was accurate,” and “an  
2 eight-step, highly detailed pre-litigation review process to ensure accuracy and to review  
3 the work of firm employees to avoid violating the [FDCPA].” *Id.* (emphasis in original)  
4 (quoting *Reichert*, 531 F.3d at 1006). On this record, there are issues of fact as to  
5 whether I.Q. Data’s processes are the types of “elaborate procedures” needed to  
6 successfully invoke the bona fide error defense. Accordingly, I.Q. Data’s motion for  
7 summary judgment is DENIED as to Ford’s FDCPA claim arising from the January 2022  
8 letter.

9 **3. Washington Consumer Protection Act**

10 To establish a violation of the CPA, a private plaintiff must prove: (i) the  
11 defendant engaged in an unfair or deceptive act or practice; (ii) such act or practice  
12 occurred in the conduct of trade or commerce; (iii) such act or practice affected the public  
13 interest; (iv) the plaintiff suffered an injury to his or her business or property; and (v) a  
14 causal relationship exists between the defendant’s act or practice and the plaintiff’s  
15 injury. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778,  
16 785-93, 719 P.2d 531, 535-39 (1986).

17 I.Q. Data argues that Ford’s CPA claim should be dismissed because he cannot  
18 prove either causation or injury. Ford contends that I.Q. Data’s acts caused him to  
19 experience the injuries of emotional distress and a reduced credit score, which has made  
20 it more difficult for him to obtain credit and housing. “Personal injuries, as opposed to  
21 injuries to ‘business or property,’ are not compensable and do not satisfy the injury  
22 requirement.” *Panag v. Farmers Ins. Co. of Wash.*, 166 Wn.2d 27, 57, 204 P.3d 885  
23

(2009) (citations omitted). Thus, Ford’s emotional distress cannot be the basis for a CPA claim.

Ford, however, also contends that I.Q. Data’s actions caused his car insurance to increase and forced him to incur expenses in investigating the alleged improper debt collection practices. *See* July 2024 Ford Decl. at ¶ 9 (docket no. 142). It is not clear, however, from the record and the parties’ briefing as to whether these harms actually meet the CPA’s minimal injury requirement. *See Panag*, 166 Wn.2d at 57 (“[T]he injury requirement is met upon proof the plaintiff’s ‘property interest or money is diminished because of the unlawful conduct even if the expenses caused by the statutory violation are minimal.’” (quoting *Mason v. Mortgage Am., Inc.*, 114 Wn.2d 842, 854, 792 P.2d 142 (1990))). Nor is it clear from the record and the parties’ briefing whether I.Q. Data’s actions caused these harms. *See Indoor Billboard/Washington, Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn.2d 59, 80–83, 170 P.3d 10 (2007) (rejecting the “argument that [CPA] causation may be established merely by a showing that money was lost”). Accordingly, the Court will DEFER a final ruling on Ford’s CPA claim against I.Q. Data. The parties shall address these issues in their trial briefs.

**B. Kris Graafstra**

Graafstra moves for summary judgment on all remaining claims against him. As to the FDCPA claims against Graafstra, an employee of a debt collection agency can be personally liable for a FDCPA violation if “they (1) materially participated in collecting the debt at issue; (2) exercised control over the affairs of the business; (3) were personally involved in the collection of the debt at issue, or (4) were regularly engaged,



1 directly or indirectly, in the collection of debts.” *Smith v. Levine Leichtman Cap.*  
2 *Partners, Inc.*, 723 F. Supp. 2d 1205, 1214 (N.D. Cal. 2010) (citing *Schwarm v.*  
3 *Craighead*, 552 F. Supp. 2d 1056, 1073 (E.D. Cal. 2008)). It is clear from the record that  
4 Graafstra regularly engaged in the collection of debts and was repeatedly and materially  
5 involved in I.Q. Data’s efforts to collect Ford’s debt. What is completely missing from  
6 the record, however, is any evidence that Graafstra exercised any amount of control over  
7 I.Q. Data’s business affairs. Indeed, the evidence in the record shows that Graafstra did  
8 not exercise control over I.Q. Data’s business affairs and was just an employee. *See* Dec.  
9 13, 2021, Graafstra Decl. (docket no. 75); May 7, 2024, Graafstra Decl. (docket no. 124).  
10 Accordingly, Ford’s FDCPA claims against Graafstra are DISMISSED.

11 As to Ford’s FCRA claim against Graafstra, there is no evidence in the record that  
12 Graafstra furnished any information to CRAs about Ford’s debt. Because he never  
13 furnished information to CRAs, Graafstra could not have violated the FCRA in relation to  
14 Ford’s debt. Accordingly, Ford’s FCRA claim against Graafstra is DISMISSED.

15 Finally, Ford asserts a CPA claim against Graafstra. Ford’s CPA claim against  
16 Graafstra is premised on Graafstra’s alleged violations of the FDCPA and FCRA, *i.e.*,  
17 that Graafstra’s actions were *per se* CPA violations. *See, e.g., Urban v. Mid-Century*  
18 *Ins.*, 79 Wn. App. 798, 805, 905 P.2d 404 (1995) (“The first two elements [of a CPA  
19 claim] may be established by showing that the alleged act constitutes a *per se* unfair trade  
20 practice.”). Absent Graafstra’s alleged violations of the FCRA and FDCPA, there are no  
21 facts in the record showing that Graafstra’s actions meet the first two prongs of a CPA  
22 claim. Accordingly, Ford’s CPA claim against Graafstra is DISMISSED.

1 **Conclusion**

2 For the foregoing reasons, the Court ORDERS:

3 (1) I.Q. Data International, Inc. and Kris Graafstra's motion for summary  
4 judgment, docket no. 122, is GRANTED in part, DENIED in part, and DEFERRED in  
5 part.

6 (a) The motion is GRANTED as to: (i) Ford's FDCPA claim against  
7 I.Q. Data premised on the December 2021 letter and that claim is DISMISSED, (ii)  
8 Ford's FCRA claim against Graafstra and that claim is DISMISSED, (iii) Ford's FDCPA  
9 claims against Graafstra and those claims are DISMISSED, and (iv) Ford's CPA claim  
10 against Graafstra and that claim is DISMISSED.

11 (b) The motion is DENIED as to Ford's FDCPA claim against I.Q. Data  
12 premised on the January 2022 letter and Ford's FCRA claim against I.Q. Data.

13 (c) The motion is DEFERRED as to Ford's CPA claim against I.Q.  
14 Data.

15 (2) Ford is ORDERED to file, no later than August 16, 2024, a detailed,  
16 itemized offer of proof as to his actual damages and any proposed damages exhibits that  
17 would be presented trial.

18 (3) The Court MODIFIES the Scheduling Order, docket no. 104, as follows:

19 Agreed Pretrial Order due: August 23, 2024

20 Trial Briefs, proposed August 23, 2024  
21 voir dire questions,  
and jury instructions due:

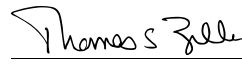
22 All other dates and deadlines in the Scheduling Order remain unchanged.  
23

1 (4) The parties shall also address in their trial briefs whether Ford can prove  
2 actual damages as to any claim and the CPA injury and causation requirements.

3 (5) The Clerk is directed to send a copy of this Order to all counsel of record.

4 IT IS SO ORDERED.

5 Dated this 29th day of July, 2024.

6 

7 Thomas S. Zilly  
8 United States District Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23